

**REMARKS**

**Status of the Claims**

Claims 1-39 are in the application.

Claims 1-39 were subject to a restriction requirement.

Claims 30-32, 38 and 39 were not elected.

Claims 1-29 and 33-37 have been subject to election of species requirement and identification of the claims upon which the elected species read has been required.

By way of this amendment, claims 5, 8, 16, 19, 23-32 and 37-39 have been canceled without prejudice and claims 9-11, 20-22 and 33 have been amended.

Upon entry of this amendment, claims 1-4, 6, 7, 9-15, 17, 18, 20-22 and 33-36 will be pending.

**Summary of the Amendment**

Claims 5, 8, 16, 19, 23-32 and 37-39 have been canceled as being directed to non-elected inventions and unelected species.

Claims 9-11 and 20-22 have been amended to more clearly read upon the elected species.

Claim 33 has been amended to delete reference to non-elected subject matter.

No new matter has been added by these amendments.

In the Communication from the Patent Office dated January 29, 2003, the Examiner indicated that Applicants' claim amendments filed November 13, 2002 were not entered. The Examiner noted that there appeared to be a typographical error in the numbering of the clean copy of the claims for claim 22.

Applicants herein correct the noted typographical error relating to claim 22 and provide amendments to claims 9-11, 20, 21 and 33 as submitted in the "Reply" filed November 13, 2002 as well as identifying claims reading on the elected species. No new matter has been added.

**Response to Restriction Requirement and Election of Species**

Applicants filed a Reply on June 25, 2002 in response to an Official action dated March 25, 2002 which contained a restriction requirement and requirement for election of species. In

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the outstanding Official Action dated October 1, 2002, it is asserted that while presenting a bona fide response to the March 25, 2002 Official Action, the response filed June 25, 2002 was not complete. The Official Action dated October 1, 2002 requires that Applicants identify all claims readable on the elected species.

In the response filed June 25, 2002, Applicants elected group I, claims 1-29 and 33-37 and elected the species of plasmid vector and DR5. Claims reading on the elected species plasmid vector and DR5 include claims 1-4, 6, 7, 9-15, 17, 18, 20-22 and 33-36 as amended herein.

**Change in address**

Please direct all future correspondence in connection with this application to:

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**Conclusion**

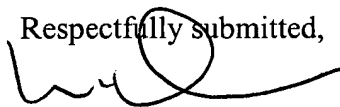
Claims 1-4, 6, 7, 9-15, 17, 18, 20-22 and 33-36 are in condition for allowance. A Notice of Allowance is earnestly solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "**Version with marking to show changes made.**"

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Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

9. The plasmid of claim 1 wherein said immunogen is herpes simplex antigen [is] HSV2gD.
10. An injectable pharmaceutical composition comprising the plasmid of claim 9. [8.]
11. A method of immunizing an individual against a herpes simplex virus infection comprising administering to said individual a plasmid of claim 9. [8.]
20. The composition of claim 19 wherein said immunogen is herpes simplex antigen [is] HSV2gD.
21. An injectable pharmaceutical composition comprising the composition of claim 20. [19.]
22. A method of immunizing an individual against a herpes simplex virus infection comprising administering to said individual a plasmid of claim 20. [19.]
33. A method of inducing an immune response in an individual against an immunogen comprising administering to said individual:  
[said immunogen and /or] a nucleic acid molecule comprising a nucleotide sequence that encodes said immunogen operable linked to regulatory elements; and  
[an immunomodulating protein and/or] a nucleic acid molecule comprising a nucleotide sequence that encodes said immunomodulating protein operably linked to regulatory elements, wherein said immunomodulating protein is selected from the group consisting of : MCP-1, MIP-1a, MIP-1 $\beta$ , IL-8, RANTES, L-selectin, P-selectin, E-selectin, CD34, GlyCAM-1, MadCAM-1, LFA-1, VLA-1, Mac-1, p150.95, PECAM, ICAM-1, ICAM-2, ICAM-3, CD2, LFA-3, M-CSF, G-CSF, IL-4, mutant forms of IL-18, CD40, CD40L, vascular growth factor, IL-7, nerve growth factor, vascular endothelial growth factor, Fas, TNF receptor, Flt, Apo-1, p55, WSL-1, DR3, TRAMP, Apo-3, AIR, LARD, NGRF, DR4, DR5, KILLER, TRAIL-R2, TRICK2, DR6, and Caspase ICE.